

Texas State Board of Dental Examiners



Presentation

Senate

Health and Human Services Committee

March 20, 2012



Texas State Board of Dental Examiners



APPEARING FOR THE STATE BOARD OF DENTAL EXAMINERS

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ADDITIONAL RESOURCES

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TAMELA GOUGH, D.D.S.

SBDE Presiding Officer





Texas State Board of Dental Examiners

- **Mission**

To safeguard the dental health of Texas by developing and maintaining programs to:

- Ensure that only qualified persons are licensed to provide dental care; and
- Ensure that violators of laws and rules regulating dentistry are sanctioned as appropriate.

- **Board Composition**

The SBDE (the Board) is composed of 15 members: 8 Dentists; 2 Dental Hygienists and 5 Public Members.

- **Agency Composition**

The SBDE (the Agency) is staffed by 33 employees and is divided into 5 primary programs: Executive (5 FTEs), Licensing (5 FTEs), Enforcement (13 FTEs), Legal (7 FTEs) and Administration (2 FTEs).

- **Funding**

The SBDE is totally self supporting. It's operations are supported primarily from statutory fees related to licensing, credentialing and examinations. In Fiscal Year 2011 the Board operated on a \$2.5 million budget and collected approximately \$8.9 million in revenue.

The SBDE returned \$6.3 million to the General Revenue.



Texas State Board of Dental Examiners

Texas Occupations Code

Sections 251.003 and 259.004

- Anyone who owns, maintains operates or influences a dental service is practicing dentistry.
- Law permits a dentist to employ a Management Service Organization (MSO) for non-patient treatment services.
- MSO Agreements and billing information shall be reported to the Board upon request.
- A dentist is responsible for all acts undertaken under their name (license)



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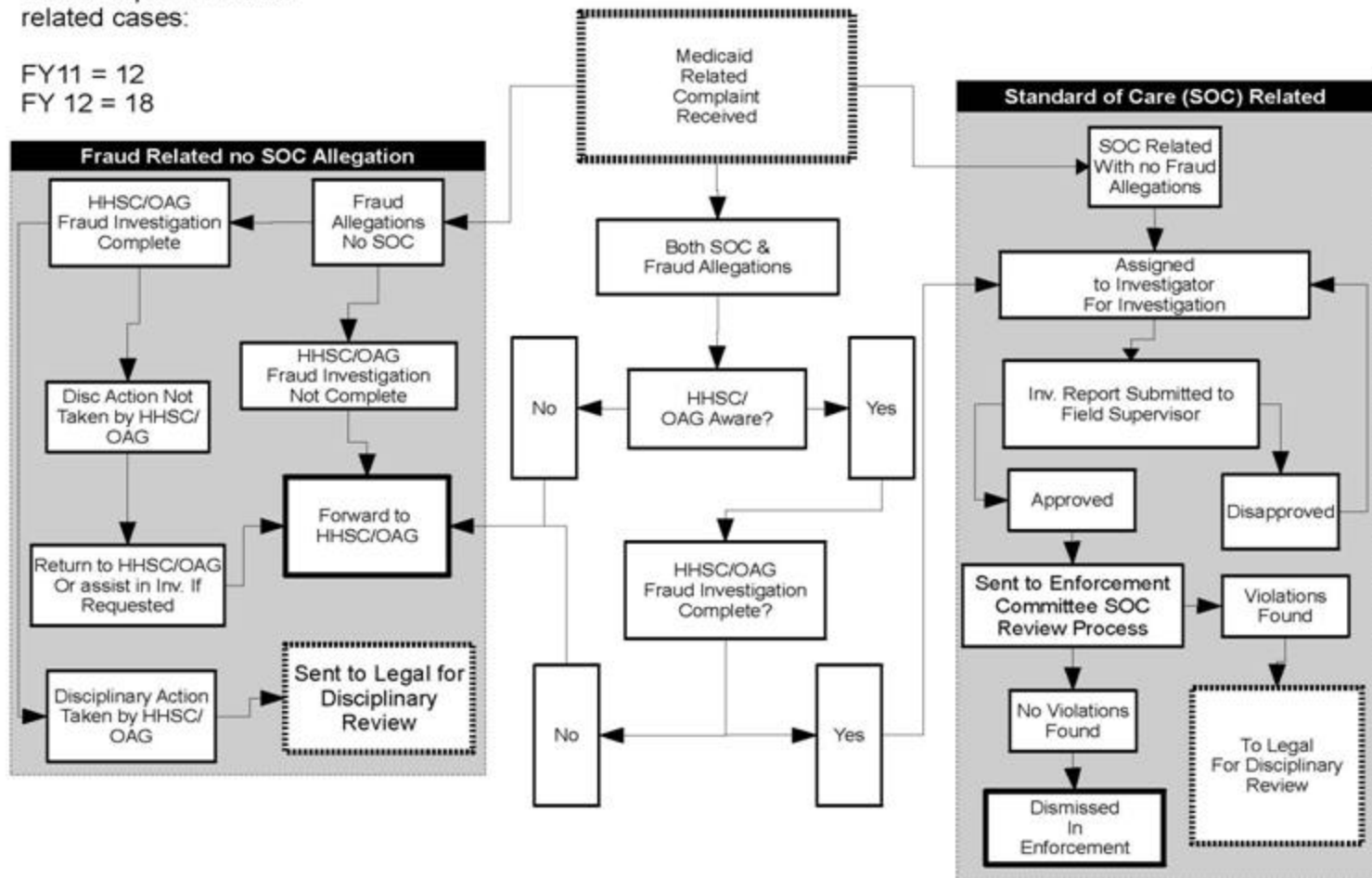
Complaint Procedures for Medicaid Related Complaints to the Texas State Board of Dental Examiners

The Texas State Board of Dental Examiners (SBDE) is the primary agency for Standard of Care (SOC) complaint investigations for a dental licensee. The SBDE may also take disciplinary action based on a conviction or similar administrative action taken against a dental licensee by another State agency or Regulatory Board. Medicaid complaints involving allegations of Medicaid fraud are forwarded to the Health and Human Services Commission (HHSC) and the Office of the Attorney General (OAG), the two agencies with primary jurisdiction over Medicaid Fraud.

Texas State Board of Dental Examiners Medicaid Related Complaint Process Flowchart

Current open Medicaid
related cases:

FY11 = 12
FY 12 = 18



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Appendix



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- **Dentistry**

Texas Occupations Code

Sec. 251.003. Practice of Dentistry.

- (4) owns, maintains, or operates an office or place of business in which the person employs or engages under any type of contract another person to practice dentistry;**
- (9) controls, influences, attempts to control or influence, or otherwise interferes with the exercise of a dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition;**

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- **Dentistry**

Texas Occupations Code

Sec. 259.004. Duties of Dentist in Certain Employment or Contractual Arrangements

- (a) A person providing dental services under an agreement that allows another person to control or influence any aspect of the delivery of dental services, including a business or professional aspect, shall report to the board on request and in accordance with board rules:
- (1) information concerning the agreement;
 - (2) the manner in which patients are billed;
 - (3) the manner in which the dental service provider is paid and any information provided to patients concerning payment agreements; and
 - (4) information concerning the service provider agreement provided to shareholders of organizations contracting with a dental service provider.

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- **Dentistry**

Texas Occupations Code

Sec. 259.004. Duties of Dentist in Certain Employment or Contractual Arrangements

- (b) A person who practices dentistry and has another dentist practicing with or under the person is responsible for all professional acts performed under the name of the person, regardless of whether the dentist has an ownership interest or an employment or contractual relationship. This section does not affect an individual license holder's responsibilities and rights under this subtitle.**
- (c) A statute relating to the practice of dentistry in this state may not be construed to prohibit a licensed dentist from maintaining more than one office in this state if the dentist:
 - (1) assumes full legal responsibility and liability for the dental services provided in each office; and**
 - (2) complies with the requirements prescribed by board rules.****

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- **Dentistry**

Texas Occupations Code

Sec. 254.0011. Rules Relating to Control of Dental Practice

- (a) The board may adopt rules relating to the practice of dentistry as described by Section 251.003(a)(9) to prohibit a dentist from engaging in contracts that allow a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment.
- (b) Rules adopted by the board under this subtitle may not preclude a dentist's right to contract with a management service organization. Rules affecting contracts for provision of management services apply the same to dentists contracting with management service organizations and to dentists otherwise contracting for management services.

Texas State Board of Dental Examiners



Memorandum of Agreement

Between

**Texas Health and Human Services Commission - Office of Inspector General and the
Texas State Board of Dental Examiners**

State of Texas

County of Travis

THIS Memorandum of Agreement (“MOA”) is entered into and between the HEALTH AND HUMAN SERVICES COMMISSION-OFFICE OF INSPECTOR GENERAL (“HHSC-OIG”) and The Texas State Board of Dental Examiners (“SBDE”), agencies of the State of Texas, as contracting parties and referred to, either one individually as a “Party” and collectively as “the Parties.”

ARTICLE 1. BACKGROUND

a) HHSC is the single agency designated to administer Medicaid in Texas under 42 U.S. C. Sec. 1396(a). HHSC is authorized to enter into this Agreement under Section 531.021, Texas Government Code. HHSC is an agency with authority to register and regulate health care professionals that may participate in the Medicaid Program.

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b) OIG is the office within HHSC that is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services as authorized under Section 531.102, Texas Government Code.

c) CSB263, 78th Legislature, added Section 254.011 to the Occupations Code, directing the State Board of Dental Examiners to enter into an agreement with the Health and Human Services Commission to improve the coordination on issues relating to the State Medicaid program. The agreement must require each agency to:

- (1) refer to the other agency, as appropriate, cases involving fraud, abuse, or insufficient quality care under the state Medicaid program;**
- (2) maintain a log of cases referred to the other agency;**
- (3) share information with the other agency, subject to confidentiality requirements including investigative reports on cases within the jurisdiction of both agencies; and**
- (4) collaborate with the other agency in the investigation of cases and the initiation of appropriate disciplinary action whenever possible.**

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d) HR1444, Medicare and Medicaid Patient and Program Protection Act of 1987, added Section 1921(a), directing all state license boards responsible for the licensing of health care practitioners or entities to report to the Medicaid agency:

- (1) any adverse action taken by such licensing authority as a result of a formal proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation;**
- (2) any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the state or jurisdiction; or**
- (3) any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.**

e) The SBDE is the agency empowered to establish professional standards and regulate the practice of professional dentistry. SBDE is an agency with authority to license and regulate health care professionals that may participate in the Medicaid program.

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ARTICLE 2. TERM OF AGREEMENT

The MOA shall commence on October 15, 2010, and shall continue until terminated in writing by either Party. In the event of such written notification, this agreement will terminate at midnight on the 30th day following the date of such written notification.

ARTICLE 3. STATUTORY AND REGULATORY COMPLIANCE

3.01. Safeguarding Information.

a) Each Party will safeguard the confidentiality of any information in its possession concerning Medicaid recipients or applicants. Each Party will take care not to disclose to anyone (including but not limited to any state, local, or federal legislative body) any Medicaid recipient or applicant information or any information that might tend to identify recipients of or applicants for Medicaid or other assistance, except for purposes and in manner permitted under state and federal law.

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b) Each Party will safeguard the confidentiality of any investigative information released by the other Party and may not disclose any information except as required by law. Confidential information that is shared under this MOA remains subject to the same confidentiality requirements that are imposed by law on the releasing Party. The sharing of information under this MOA in compliance with Texas Government Code § 531.1031 does not affect whether the information is subject to disclosure under Texas Government Code Chapter 552.

3.02. Compliance with State and Federal Laws and Regulations.

Each Party will comply with all state and federal laws and regulations, including all those that apply to operating agencies under Titles IV-D and XTX of the Social Security Act of 1935, as amended.

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ARTICLE 4. DUTIES AND OBLIGATIONS OF THE AGENCIES

4.01. Duties and Obligations of HHSC-OIG.

HHSC-OIG agrees to:

- a) refer to SBDE, as appropriate, cases involving potential fraud, abuse, insufficient quality of care under the state Medicaid program, or violations of licensure board rules, regulations, or statutes;
- b) maintain a log of cases referred to SBDE;
- c) share information with SBDE, in accordance with Article 5, which may include investigative reports on cases within the jurisdiction of both agencies; and
- d) collaborate with SBDE in the investigation of cases and the initiation of appropriate disciplinary action whenever appropriate.

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4.02. Duties and Obligations of HHSC-OIG.

SBDE agrees to:

- (a) refer to HHSC-OIG, as appropriate, cases involving potential fraud, abuse, insufficient quality of care under the state Medicaid program, or violations of licensure board rules, regulations, or statutes;**
- (b) maintain a log of cases referred to HHSC-OIG;**
- (c) share information with HHSC-OIG, subject to confidentiality requirements, including investigative reports on cases within the jurisdiction of both agencies;**
- (d) collaborate with HHSC-OIG in the investigation of cases and the initiation of appropriate disciplinary action whenever appropriate.**
- (e) report to HHSC-OIG any adverse action taken by SBDE as a result of a formal proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation;**

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- (f) report to HHSC-OIG any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the state or jurisdiction; or**
- (g) report to HHSC-OIG any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.**

ARTICLE 5. RELEASE OF INFORMATION

5.01. Requests for Information.

A party may submit a written request for information regarding a health care professional or managed care organization that is the subject of an investigation by the requesting Party to the other Party. The responding Party will provide the requesting agency with the information regarding the health care professional or managed care organization unless: (1) the release of information would jeopardize an ongoing investigation or prosecution by the responding Party with possession of the information; or (2) the release of the information is prohibited by other law.

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5.02. General Authority to Release.

A Party that discovers information that may indicate fraud or abuse by a health care professional or managed care organization is authorized pursuant to Texas Government Code § 531.1031(d) to provide that information to the other Party unless the release of the information is prohibited by other law.

5.03. Notice of Prohibition.

If, after receiving a request for information under Section 5.01, a Party determines that it is prohibited from releasing the requested information, that Party shall inform the requesting Party of that determination in writing within thirty (30) days of receiving the request.

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5.04. HHSC-OIG Confidentiality Provisions.

The Parties acknowledge and understand that all information and materials subpoenaed or compiled by HHSC-OIG in conjunction with an audit or investigation are confidential and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release. HHSC-OIG may disclose such information to law enforcement agencies pursuant to Texas Government Code § 531.1021(g).

5.05. SBDE Confidentiality Provisions.

The Parties acknowledge and understand that a complaint, investigation, and all information and material compiled by the board in conjunction with the complaint or investigation are confidential and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release. SBDE may disclose such information to a person involved with the board in a disciplinary action, another board or peer assistance program, or a law enforcement agency pursuant to Texas Occupations Code Chapter 254.

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5.06. Provision of Documents.

Each Party will furnish detailed information, subject to confidentiality requirements, as required by the other Party to render the performances called for in this Agreement. Each party will provide access to, and free copies of, any records or information relevant to a matter under investigation by either party or records or information kept by a party or its contractors. The Parties will develop jointly a schedule of the types and formats of information required.

ARTICLE 6. GENERAL PROVISIONS

6.01. Agency Liaisons.

The Parties will designate Agency Liaisons for this Agreement. The Agency Liaisons will be the initial points of contact between the agencies for inquiries concerning this Agreement. Either Party may change its Agency Liaison with five days written notice to the other Party. Agency Liaisons for the Parties are:

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Texas State Board of Dental Examiners



HHSC-OIG

Karen Nelson

Chief Counsel

Health and Human Services Commission-

Office of Inspector General

Post Office Box 85200

Austin, TX 78708

Telephone: (512) 491-2803

SBDE

Joy Sparks

General Counsel

Texas State Board of Dental Examiners

333 Guadalupe

Tower 3, Ste. 800

Austin, TX 78701

Telephone: (512) 463-6400

6.02. Notice.

Any notices under this Agreement will be sent by registered or certified return receipt requested, or will be delivered by hand, and a receipt provided. Any notice under this Agreement will be sufficient if hand delivered, or mailed to the addresses set forth below. Either party may change its designees or addresses upon five days written notice to the other Party. The Parties' designees and addresses for notices are as follows:

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Appendix

Texas State Board of Dental Examiners



HHSC-OIG

**Karen Nelson
Chief Counsel
Health and Human Services Commission-
Office of Inspector General
Post Office Box 85200
Austin, TX 78708
Telephone: (512) 491-2803**

With a Copy to:

**Office of the General Counsel
Health and Human Services Commission
4900 North Lamar Blvd
Fourth Floor
Austin, Texas 78751
Telephone: (512) 424-6578**

SBDE

**Joy Sparks
General Counsel
Texas State Board of Dental Examiners
333 Guadalupe
Tower 3, Ste. 800
Austin, TX 78701
Telephone: (512) 463-6400**

With a Copy to:

**Office of the General Counsel
Texas State Board of Dental Examiners
333 Guadalupe
Tower 3, Ste 800
Austin, TX 78701
Telephone: (512) 463-6400**

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ARTICLE 7. CERTIFICATIONS

The undersigned contracting Parties certify that:

- a) The services above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government.
- b) The proposed arrangements serve the interest of efficient and economical administration of state government.
- c) The services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest possible bidder.

This agreement is executed by the Parties in their capacities as stated below.

HEALTH AND HUMAN SERVICES COMMISSION

Bart Bevers
Inspector General
Date: 10-20-10

**TEXAS STATE BOARD OF DENTAL
EXAMINERS**

Sherri Sanders Meek
Executive Director
Date: 9.30.10

Texas State Board of Dental Examiners



Texas State Board of Dental Examiners

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